

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

DEC 6 2010

OFFICE OF
MANAGING DIRECTOR

Aaron P. Shainis, Esq.
Shainis & Peltzman, Chartered
1850 M Street, N.W., Suite 240
Washington, D.C. 20036

Re: Pocatello Channel 15, L.L.C.
Stations KBEO(TV), Jackson, Wyoming, and
KPIF(TV), Pocatello, Idaho
Request for Waiver of FY 2009 Regulatory Fees
Fee Control No. RROG-09-00012330

Dear Mr. Shainis:

This is in response to the request filed November 12, 2008 (*Request*) and supplemented on August 5, 2010, and October 6, 2010,¹ on behalf of Pocatello Channel 15, L.L.C. (Pocatello), for a waiver of the fiscal year (FY) 2009 regulatory fees for Station KPIF(TV), Pocatello, Idaho, and Station KBEO(TV), Jackson, Wyoming, based upon financial hardship. Our records reflect that Pocatello has not paid the \$1,950.00 FY 2008 regulatory fee for Station KPIF(TV) or the \$5,950.00 FY 2008 regulatory fee for Station KBEO(TV). For the reasons stated herein, we grant your request.

You state that Station KBEO(TV) "ceased analog operations on September 24, 2008 due to financial reasons[.]" had no revenues or employees in 2008 and 2009,² and had its license cancelled in 2010.³ You maintain that Station KPIF(TV) is a new station operating at a net loss with very low revenue and has not been able to generate any significant income from advertising.⁴ You aver that Pocatello has been able to operate the station only by means of loans from Pocatello's "principal and 100 percent owner, Mrs. Myoung Hwa Bae (or other entities 100 percent owned by Mrs. Bae[.])"⁵ You state that "[n]o net payments (including no payroll payments) have been made by . . . [Pocatello or the stations] to Mrs. Bae, or to any entity in which Mrs. Bae has any interest, or to any other principal or owner of . . . [Pocatello or the stations], in 2008 or since the stations were constructed and have been operating."⁶ In support of your

¹ Letters from Aaron P. Shainis, Esq. to Office of the Managing Director (OMD), FCC (Aug. 5, 2010) (*August Letter*) and (Oct. 6, 2010) (*October Letter*).

² *October Letter* at 1.

³ *August Letter* at 1.

⁴ *Request* at 1-2.

⁵ *Id.* at 2.

⁶ *Id.*

request, you submit a copy of Pocatello's unaudited "Profit & Loss" for the 2008 calendar year (*Financial Statement*).⁷ You say that during 2008, Station KPIF(TV) had two employees who earned \$24,000.00 and \$8,000.00, respectively.⁸

The Commission has determined that the imposition of a regulatory fee could be an impediment to the restoration of service by dark stations and that it therefore would waive the fee requirement for stations which have ceased operation.⁹ Our records reflect that on April 28, 2010, the Media Bureau found that Station KBEO(TV) had been silent since September 24, 2008, and cancelled the license for the station and deleted the call sign.¹⁰ Because Station KBEO(TV) was not operating on the date that the regulatory fees for FY 2009 were due (*i.e.*, September 22, 2009), we grant your request for waiver of the regulatory fee for Station KBEO(TV) for FY 2009.

In establishing a regulatory fee program, the Commission recognized that in certain instances payment of a regulatory fee may impose an undue financial hardship upon a licensee. The Commission therefore decided to grant waivers or reductions of its regulatory fees in those instances where a "petitioner presents a compelling case of financial hardship."¹¹ In reviewing a showing of financial hardship, the Commission relies upon a licensee's cash flow, as opposed to the entity's profits, and considers whether the station lacks sufficient funds to pay the regulatory fee and maintain service to the public.¹² Thus, even if a station loses money, any funds paid to principals and deductions for depreciation or amortization are considered funds available to pay the fees.

With respect to Station KPIF(TV), Pocatello's *Financial Statement* indicates that the company suffered a financial loss in the 2008 calendar year of \$210,193.77, which was only partially offset by a depreciation deduction. Given that Pocatello suffered a financial loss in the 2008 calendar year, we grant your request for a waiver of the regulatory fee for Station KPIF(TV) for FY 2009.

⁷ *Id.*; see also *October Letter* (stating that the *Financial Statement* is for Pocatello and not for "CW15 KPIF TV" as erroneously indicated thereon).

⁸ *August and October Letters* at 1.

⁹ *Memorandum Opinion and Order in MD Docket No. 94-19*, FCC 95-257, 10 FCC Rcd 12759, 12762 (1995). Broadcast stations that are dark must request permission to suspend operation pursuant to Section 73.1740(a)(4) of the Commission's rules. *Id.*

¹⁰ Letter from Clay C. Pendarvis, Media Bureau, FCC to Pocatello Channel 15, LLC (Apr. 28, 2010).

¹¹ *Report and Order in MD Docket No. 94-19*, FCC 94-140, 9 FCC Rcd 5333, 5346 (1994).

¹² *Memorandum Opinion and Order in MD Docket No. 94-19*, *supra* n.9.

Aaron P. Shainis, Esq.

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If you have any questions concerning this matter, please contact the Revenue & Receivables Operations Group at (202) 418-1995.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark Stephens', with a long horizontal flourish extending to the right.

Mark Stephens
Chief Financial Officer